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Communiqué

*for Health Industry Clients
on the Legal Retainer Program*

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SARS Recovery Plan

It would, fortunately, appear that the recent outbreak of Severe Acute Respiratory Syndrome (SARS) is beginning to abate. The number of new cases being reported has fallen significantly, the number of patients in hospital is decreasing, and there have been very few reported cases in constituencies outside Toronto.

As hospitals recover from outbreak mode, it is imperative that they develop a plan to assist in the delivery of services to those patients who have been disadvantaged during the recent limitations of access to service. Many healthcare organizations will have accumulated large backlogs of patients for surgical procedures, consultations, and diagnostic procedures.

While organizations will, understandably, try to co-ordinate and plan for the delivery of these services as quickly as possible, it is clear that the outstanding demand far exceeds the resources of any institution. Furthermore, there are a number of factors which may limit the ability of an organization to meet this demand. These limitations include:

1. A lack of financial resources. This is particularly the case given the lack of clarity with regard to the Ministry's plans to fund hospitals, not only for the cost for providing the pent-up demand for services, but also for reimbursing those costs underwritten by organizations for the treatment of patients with SARS.
2. Many hospitals' physical resources (such as endoscopy suites, operating rooms, inpatient beds) are insufficient to allow the organization to cope with the backlog of services in a short timeframe.

3. Organizations have not yet had the opportunity to annotate the volume of pent-up demand for service, or to develop triage criteria to assist in the designation of which patients deserve, or are in need of, more rapid access to service.
4. The available resource of healthcare workers, including physicians, nurses, and other health professionals was limited prior to the onset of the SARS outbreak. This has been further exacerbated by the stress and burnout experienced by those healthcare providers who were involved in delivering care and generally, those involved in containing the outbreak during this most unfortunate episode. Additionally, the non-physician workforce has, in general, limitations on working conditions which are imposed by previously agreed to labour negotiations. This may limit, for instance, the number of hours of service which any healthcare professional may be asked to deliver.

It is our suggestion that hospitals commence, as soon as possible, to plan a service delivery model which will allow, at a minimum, for the following:

1. Communication to their patient community to indicate that a plan is being developed in order to facilitate access to service for all those who have been disadvantaged by the recent SARS outbreak.
2. Budget negotiations to ensure that hospitals have sufficient operating dollars to provide for the accumulated demand for service.
3. Careful evaluation of the available physical resources to help meet the demand for services (e.g. operating room time, materials, etc.)
4. Develop a triage system indicating which patients should have first priority for access to service.
5. Simultaneous with the above exercises, hospitals should engage in discussion with their labour force and unions in order to ensure that there is a broad based, collegial process which will allow the hospital to annotate the commitment of all of its staff to provide sufficient human resources to facilitate patient access in as timely and cost-effective a manner as possible.

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Note: This communiqué is provided as an information service to our clients and is a summary of current legal issues of concern to Health Industry Clients. Communiqués are not meant as legal opinions and readers are cautioned not to act on information provided in this communiqué without seeking specific legal advice with respect to their unique circumstances. Your comments and suggestions are most welcome and should be directed to Kathryn Frelick, Supervising Counsel Legal Retainer Program.

Miller Thomson LLP, with its expertise in regulatory affairs, government relations and labour and employment law, in collaboration with Milton Consulting's expertise in health service delivery planning, is prepared to assist any interested facilities in developing and negotiating a plan in order to ensure that patient services be delivered in a rational, planned, and cost-efficient and cost-effective manner.

About the Author:

Dr. Isser Dubinsky is Vice President of Milton Consulting Inc. He consults with Government, Institutions, Private Industry and Professionals in a variety of areas including: cost effective and cost efficient health care; conflicts resolution; best practice; leadership developments and quality management.

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